

REMARKS

Claims 1-3 are currently pending. In response, Applicant submits the following remarks.

Information Disclosure Statement

In the Office Action mailed November 21, 2005, the Examiner states that the information disclosure statement filed August 29, 2005 fails to comply with 37 CFR 1.98(b)(5). The reference has been placed in the application file, but the information referred to therein has not been considered.

In response, Applicant submits with this filing a new information disclosure statement believed to comply with 37 CFR 1.98(b)(5). Applicant has not submitted a new copy of the reference because it is quite large and is already in the application file. Applicant respectfully requests that the examiner now consider this reference.

Claim Rejections

Claims 1-3 are pending. Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by US Patent 6,101,180 to Donahue et al. Claims 2-3 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Donahue in view of "Cable Modem Termination System – Network Side Interface Specification ("CTMS-NSIS").

Donahue et al. was filed on November 12, 1997 and claims the benefit of three provisional applications. The earliest provisional application was filed on November 12, 1996. Applicant will assume for the sake of argument that Donahue et al. is entitled to its earliest benefit claim. The examiner does not provide a date for the CTMS-NSIS reference; Applicant believes that its date is July 2, 1996.

In response, Applicant submits the enclosed "Revised Declaration of Milo S. Medin" under Rule 131 evidencing that the claimed invention was completed prior to the effective dates of the references. This declaration was originally submitted in the instant application's parent case, 08/811,586, now US Patent 6,370,571. Claim 1 of the instant application is identical to claim 17 referenced in the declaration.

Due to the Rule 131 Declaration, Applicant respectfully submits that Donahue et al. and the CTMS-NSIS reference cannot be applied as prior art against the pending claims. Accordingly, Applicant requests that the rejections be withdrawn and the application passed to issue.

For at least the reasons stated above, Applicant respectfully submits that the pending claims are allowable over the art of record and request that the application be passed to issue. The examiner is invited to contact the undersigned to advance the prosecution of this case.

Respectfully submitted,
MILO S. MEDIN, JR.

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By: /Brian M. Hoffman/
Brian M. Hoffman, Reg. No. 39,713
Attorney for Applicant
Fenwick & West LLP
801 California Street
Mountain View, CA 94041
Tel.: (415) 875-2484
Fax: (415) 281-1350